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Speaker Anthony Rendon  
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Senate Pro Tempore Toni Atkins  
1021 O St. Ste. 8518  
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Senator Nancy Skinner  
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Assembly Member Phil Ting  
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Senator Ben Hueso  
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Assembly Member Eduardo Garcia  
1020 N Street, Room 408  
Sacramento, CA 95814

**RE: SB 846 (Dodd) Governor's proposal to extend Diablo Canyon - OPPOSE**

TURN, on behalf of its 10,000 dues paying members across the state, must oppose the terms of the Governor's proposal to reverse the decommissioning of Diablo Canyon and the plan to extend operations of this facility. While TURN is committed to reliable and clean electricity, TURN is committed to keeping utility rates affordable and not passing unnecessary costs on to ratepayers. Given the limited time for review, it is not clear to TURN that this bill adequately protects ratepayers from unnecessary and unreasonable rate increases. Further, given the timing of the bill draft, there is insufficient time to make the improvements to the bill required to ensure it benefits ratepayers over shareholders.

The bill authorizes a \$1.4 billion loan and an estimated \$1.35 billion plus in ratepayer increases based on a number of mandated fees. The rate impact is not limited to just PG&E residential, commercial, industrial, direct access, community choice and solar rooftop customers, but will impact all customers served by utilities subject to the jurisdiction of the CPUC, including SCE and SDG&E. This surplus money is being routed to PG&E despite the fact that the existing agreement to decommission Diablo Canyon required ratepayers to pay PG&E an accelerated rate of return for years on the condition that ratepayers would be off the hook for Diablo costs by 2025.

While shareholder profits will be technically limited to an additional \$100 million a year during each year of the extended operations, shareholders will benefit from the terms of the extension in many other ways. For most of the extended operations, ratepayers will pay the management fee even if the facility is down for over half of the year. Not only does PG&E get paid when the facility is down, the proposal shields PG&E shareholders from hundreds of millions of dollars in replacement costs even though it is unclear whether it is necessary, who is receiving the replacement power, and even if the outages are caused by PG&E imprudence, mismanagement or negligence.

The bill requires the utility to spend the volumetric fee earned on power generated at Diablo Canyon on either expenses of the extension or other identified project areas. While this language limits shareholder

profits, it doesn't actually benefit ratepayers. The project areas are widely defined and there is only limited language on the process for project review. Without sufficient review, there is no guarantee that the money will be well spent on projects whose benefits outweigh their costs. If the intent was for the money earned to benefit ratepayers, it should be used to buy down rate base or otherwise reduce debt.

Lawmakers need more time to ensure the bill is drafted to avoid any unintended consequences and will protect ratepayers from paying for any PG&E mismanagement. There are many other problems and questions with the language in this proposal that must be addressed to protect ratepayers at a time when there is a recognized crisis of affordability. TURN believes that if there is a will to protect ratepayers, then more time is needed to insert airtight provisions benefiting the ratepayers who have covered capital costs of Diablo Canyon for years at a cost of more than \$ 1 billion a year, and will complete the payoff in 2025.

Below you will find a summary and brief explanation of a few of the concerns as well as potential items to be explored in any future negotiations. Ultimately, this proposal is a significant policy shift for California that deserves more time to be vetted to secure the best outcome for ratepayers. Rushing this monumental proposal through with just a few days to fully analyze, critique and work through severely limits the likelihood that the proposal will assure proper ratepayer protections.

### **Examples of ratepayer exposure included in the proposal**

#### Actual costs of Diablo Canyon operations would be billed to customers and exempted from meaningful constraints or reasonableness reviews

- Starting in 2025, all ongoing Diablo Canyon costs (capital, operations, fuel, insurance, taxes, pensions/benefits, mitigation fees, fuel storage) would be collected from electricity customers across the state served by Investor-Owned Utilities, Community Choice Aggregators, and Electric Service Providers.
- Limited mechanisms for constraining costs or limiting the ability of PG&E to recover unlimited spending on Diablo Canyon in electricity rates. Language disincentivizes financial discipline by allowing PG&E to exceed approved forecasts by up to 15% without additional review of the excess spending.
- No forecast of costs has been provided by PG&E or Governor's Office.
- PG&E should not be given a blank check for unlimited costs that can be charged to customers across the state.

#### Fixed management fee of \$100 million/year starting in 2025

- Collected via non-bypassable charge on all customers in CA Investor-Owned Utility service territories (PG&E, SCE, SDG&E, includes all CCAs and Direct Access customers)
- PG&E still earns the full \$100 million fee even if the facility is down for 9 months in the first year of operations, 8 months in the second year, etc.
- Funds go directly to PG&E shareholders.

#### \$300 million liability protection for PG&E if Diablo suffers extended outages

- If Diablo Canyon goes offline for weeks or months due to operational problems attributable to PG&E mismanagement, ratepayers would be forced to absorb the first \$300 million of replacement power costs.
- In 2020 and 2021, Diablo Canyon suffered almost 150 days of outages due to operational

problems at Unit 2, resulting in replacement power costs of \$179 million. Under current ratemaking, PG&E may be responsible for these costs. Under the Governor's proposal, ratepayers would be liable for future outage costs even if the outage is caused by PG&E imprudence, mismanagement or negligence.

- Given the benefits to PG&E under this proposal, its shareholders should be liable for poor performance.

Volumetric fee of \$19.50/MWh for production starting in 2025

- \$6.50 collected via non-bypassable charge on all customers in CA Investor-Owned Utility service territories (PG&E, SCE, SDG&E, includes all CCAs and Direct Access customers). In addition to this \$6.50 an additional \$6.50 (\$13 total) collected from customers within PG&E's service territory (including CCAs and Direct Access customers).
- These funds serve to support credit and further insulate shareholders from risk.
- Funds can only be spent on Diablo expenses or identified projects that will only go through the most limited CPUC review. If the funds were intended to benefit ratepayers they would only be spent on projects that have been sufficiently vetted consistent with just and reasonable ratemaking or would be used to reduce utility debt.

\$1.4 billion forgivable loan from the General Fund administered by DWR

- PG&E shareholders receive \$7/MWh in incentive payments (or ~\$300 million between 2023-2025) from taxpayers
- Remaining \$1.1 billion of taxpayer funded-loan used for license renewal costs and costs of operating the plant.
- Any money obtained from the federal government could be used to repay the taxpayer loan. Remaining loan balance could be forgiven by the state.

For these reasons, TURN must oppose SB 846.

Sincerely,



Mark W. Toney, Ph.D, Executive Director

